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"Mercy-Killing"

Legislation—A Rejoinder

Responding to the objections to legalization of voluntary euthanasia raised by Professor Yale Kamisar in an Article in our preceding issue, Professor Williams concludes that the desire to prevent cruelty and the liberty of both doctor and patient outweigh the possible harmful effects to the social order which might be caused by freeing "mercy-killing" from criminal law sanctions.

Glanville Williams*

I welcome Professor Kamisar's reply¹ to my argument for voluntary euthanasia, because it is on the whole a careful, scholarly work, keeping to knowable facts and accepted human values. It is, therefore, the sort of reply that can be rationally considered and dealt with.² In this short rejoinder I shall accept most of Professor Kamisar's valuable footnotes, and merely submit that they do not bear out his conclusion.

The argument in favour of voluntary euthanasia in the terminal stages of painful diseases is quite a simple one, and is an application of two values that are widely recognised. The first value is the prevention of cruelty. Much as men differ in their ethical assessments, all agree that cruelty is an evil—the only difference of opinion residing in what is meant by cruelty. Those who plead for the legalization of euthanasia think that it is cruel to allow a human being to linger for months in the last stages of agony, weakness and decay, and to refuse him his demand for merciful release. There is also a second cruelty involved—not perhaps quite so compelling, but still worth consideration: the agony of the relatives in seeing their loved one in his desperate plight. Opponents of euthanasia are apt to take a cynical view of the desires of relatives, and this may sometimes be justified. But it cannot be denied that a wife who has

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1. Kamisar, *Some Non-Religious Views Against Proposed "Mercy-Killing" Legislation*, 42 MINN. L. REV. 969 (1958).

2. Professor Kamisar professes to deal with the issue from a utilitarian point of view and generally does so. But he lapses when he says that "the need the euthanasiaist advances . . . is a good deal less compelling [than the need to save life]. It is only to ease pain." Kamisar, *supra* note 1, at 1008. This is, of course, on Benthamite principles, an inadmissible remark.

to nurse her husband through the last stages of some terrible disease may herself be so deeply affected by the experience that her health is ruined, either mentally or physically. Whether the situation can be eased for such a person by voluntary euthanasia I do not know; probably it depends very much on the individuals concerned, which is as much as to say that no solution in terms of a general regulatory law can be satisfactory. The conclusion should be in favour of individual discretion.

The second value involved is that of liberty. The criminal law should not be invoked to repress conduct unless this is demonstrably necessary on social grounds. What social interest is there in preventing the sufferer from choosing to accelerate his death by a few months? What positive value does his life still possess for society, that he is to be retained in it by the terrors of the criminal law?

And, of course, the liberty involved is that of the doctor as well as that of the patient. It is the doctor's responsibility to do all he can to prolong worth-while life, or, in the last resort, to ease his patient's passage. If the doctor honestly and sincerely believes that the best service he can perform for his suffering patient is to accede to his request for euthanasia, it is a grave thing that the law should forbid him to do so.

This is the short and simple case for voluntary euthanasia, and, as Kamisar admits, it cannot be attacked directly on utilitarian grounds. Such an attack can only be by finding possible evils of an indirect nature. These evils, in the view of Professor Kamisar, are (1) the difficulty of ascertaining consent, and arising out of that the danger of abuse; (2) the risk of an incorrect diagnosis; (3) the risk of administering euthanasia to a person who could later have been cured by developments in medical knowledge; (4) the "wedge" argument.

Before considering these matters, one preliminary comment may be made. In some parts of his Article Kamisar hints at recognition of the fact that a practice of mercy-killing exists among the most reputable of medical practitioners. Some of the evidence for this will be found in my book.³ In the first debate in the House of Lords, Lord Dawson admitted the fact, and claimed that it did away with the need for legislation. In other words, the attitude of conservatives is this: let medical men do mercy-killing, but let it continue to be called murder, and be treated as such if the legal machinery is by some unlucky mischance made to work; let us, in other words, take no steps to translate the new morality into the concepts of the law. I find this attitude equally incomprehensible in a doctor, as Lord Dawson was, and in a lawyer, as Professor Kamisar is. Still more

3. *THE SANCTITY OF LIFE AND THE CRIMINAL LAW* 334-39 (1957).

baffling does it become when Professor Kamisar seems to claim as a virtue of the system that the jury can give a merciful acquittal in breach of their oaths.⁴ The result is that the law frightens some doctors from interposing, while not frightening others—though subjecting the braver group to the risk of prosecution and possible loss of liberty and livelihood. Apparently, in Kamisar's view, it is a good thing if the law is broken in a proper case, because that relieves suffering, but also a good thing that the law is there as a threat in order to prevent too much mercy being administered; thus, whichever result the law has is perfectly right and proper. It is hard to understand on what moral principle this type of ethical ambivalence is to be maintained. If Kamisar does approve of doctors administering euthanasia in some clear cases, and of juries acquitting them if they are prosecuted for murder, how does he maintain that it is an insuperable objection to euthanasia that diagnosis may be wrong and medical knowledge subsequently extended?

However, the references to merciful acquittals disappear after the first few pages of the Article, and thenceforward the argument develops as a straight attack on euthanasia. So although at the beginning Kamisar says that he would hate to have to argue against mercy-killing in a clear case, in fact he does proceed to argue against it with some zest.

In my book I reported that there were some people who opposed the Euthanasia Bill as it stood, because it brought a ridiculous number of formalities into the sickroom, and pointed out, without any kind of verbal elaboration, that these same people did not say that they would have supported the measure without the safeguards. I am puzzled by Professor Kamisar's description of these sentences of mine as "more than bitter comments."⁵ Like his references to my "ire," my "neat boxing" and "gingerly parrying," it seems to be justified by considerations of literary style. However, if the challenge is made, a sharper edge can be given to the criticism of this opposition than I incorporated in my book.

The point at issue is this. Opponents of voluntary euthanasia say that it must either be subject to ridiculous and intolerable formalities, or else be dangerously free from formalities. Kamisar accepts this line of argument, and seems prepared himself to ride both horses at once. He thinks that they present an ordinary logical dilemma, saying that arguments made in antithesis may each be valid. Perhaps I can best explain the fallacy in this opinion, as I see it, by a parable.

In the State of Ruritania many people live a life of poverty and misery. They would be glad to emigrate to happier lands, but the

4. Kamisar, *supra* note 1, at 971-72.

5. *Id.* at 982.

law of Ruritania bans all emigration. The reason for this law is that the authorities are afraid that if it were relaxed there would be too many people seeking to emigrate, and the population would be decimated.

A member of the Ruritanian Senate, whom we will call Senator White, wants to see some change in this law, but he is aware of the power of traditional opinion, and so seeks to word his proposal in a modest way. According to his proposal, every person, before being allowed to emigrate, must fill up a questionnaire in which he states his income, his prospects and so on; he must satisfy the authorities that he is living at near-starvation level, and there is to be an Official Referee to investigate that his answers are true.

Senator Black, a member of the Government Party, opposes the proposal on the ground that it is intolerable that a free Ruritanian citizen should be asked to write out these humiliating details of his life, and particularly that he should be subject to the investigation of an Official Referee.

Now it will be evident that this objection of Senator Black may be a reasonable and proper one *if* the Senator is prepared to go further than the proposal and say that citizens who so wish should be entitled to emigrate without formality. But if he uses his objections to formality in order to support the existing ban on emigration, one can only say that he must be muddle-headed, or self-deceptive, or hypocritical. It may be an interesting exercise to decide which of these three adjectives fit him, but one of them must do so. For any unbiased mind can perceive that it is better to be allowed to emigrate on condition of form-filling than not to be allowed to emigrate at all.

I should be sorry to have to apply any of the three adjectives to Professor Kamisar, who has conducted the debate on a level which protects him from them. But, although it may be my shortcoming, I cannot see any relevant difference between the assumed position of Senator Black on emigration and the argument of Kamisar on euthanasia. Substitute painful and fatal illness for poverty, and euthanasia for emigration, and the parallel would appear to be exact.

I agree with Kamisar and the critics in thinking that the procedure of the Euthanasia Bill was over-elaborate, and that it would probably fail to operate in many cases for this reason. But this is no argument for rejecting the measure, if it is the most that public opinion will accept.

Let me now turn to the proposal for voluntary euthanasia permitted without formality, as I have put it forward in my book.

Kamisar's first objection, under the heading of "The Choice," is

that there can be no such thing as truly voluntary euthanasia in painful and killing diseases. He seeks to impale the advocates of euthanasia on an old dilemma. Either the victim is not yet suffering pain, in which case his consent is merely an uninformed and anticipatory one—and he cannot bind himself by contract to be killed in the future—or he is crazed by pain and stupified by drugs, in which case he is not of sound mind. I have dealt with this problem in my book; Kamisar has quoted generously from it, and I leave the reader to decide. As I understand Kamisar's position, he does not really persist in the objection. With the laconic "Perhaps," he seems to grant me, though unwillingly, that there are cases where one can be sure of the patient's consent. But having thus abandoned his own point, he then goes off to a different horror, that the patient may give his consent only in order to relieve his relatives of the trouble of looking after him.

On this new issue, I will return Kamisar the compliment and say: "Perhaps." We are certainly in an area where no solution is going to make things quite easy and happy for everybody, and all sorts of embarrassments may be conjectured. But these embarrassments are not avoided by keeping to the present law: we suffer from them already. If a patient, suffering pain in a terminal illness, wishes for euthanasia partly because of this pain and partly because he sees his beloved ones breaking under the strain of caring for him, I do not see how this decision on his part, agonizing though it may be, is necessarily a matter of discredit either to the patient himself or to his relatives. The fact is that, whether we are considering the patient or his relatives, there are limits to human endurance.

The author's next objection rests on the possibility of mistaken diagnosis. There are many reasons why this risk cannot be accurately measured, one of them being that we cannot be certain how much use would actually be made of proposed euthanasia legislation. At one place in his Article the author seems to doubt whether the law would do much good anyway, because we don't know it will be used. ("Whether or not the general practitioner will accept the responsibility Williams would confer on him is itself a problem of major proportions."⁶) But later, the Article seeks to extract the maximum of alarm out of the situation by assuming that the power will be used by all and sundry—young practitioners just starting in practice, and established practitioners who are minimally competent.⁷ In this connection, the author enters in some detail into examples of mistaken diagnosis for cancer and other diseases. I agree with him that, before deciding on euthanasia in any particular

6. *Id.* at 984.

7. *Id.* at 996.

case, the risk of mistaken diagnosis would have to be considered.⁸ Everything that is said in the Article would, therefore, be most relevant when the two doctors whom I propose in my suggested measure come to consult on the question of euthanasia; and the possibility of mistake might most forcefully be brought before the patient himself. But have these medical questions any real relevance to the legal discussion?

Kamisar, I take it, notwithstanding his wide reading in medical literature, is by training a lawyer. He has consulted much medical opinion in order to find arguments against changing the law. I ought not to object to this, since I have consulted the same opinion for the opposite purpose. But what we may well ask ourselves is this: is it not a trifle bizarre that we should be doing it at all? Our profession is the law, not medicine; how does it come about that lawyers have to examine medical literature to assess the advantages and disadvantages of a medical practice?

If the import of this question is not immediately clear, let me return to my imaginary State of Ruritania. Many years ago, in Ruritania as elsewhere, surgical operations were attended with great risk. Pasteur had not made his discoveries, and surgeons killed as often as they cured. In this state of things, the legislature of Ruritania passed a law declaring all surgical operations to be unlawful in principle, but providing that each specific type of operation might be legalized by a statute specially passed for the purpose. The result is that, in Ruritania, as expert medical opinion sees the possibility of some new medical advance, a pressure group has to be formed in order to obtain legislative approval for it. Since there is little public interest in these technical questions, and since, moreover, surgical operations are thought in general to be inimical to the established religion, the pressure group has to work for many years before it gets a hearing. When at last a proposal for legalization is seriously mooted, the lawyers and politicians get to work upon it, considering what possible dangers are inherent in the new operation. Lawyers and politicians are careful people, and they are perhaps more prone to see the dangers than the advantages in a new departure. Naturally they find allies among some of the more timid or traditional or less knowledgeable members of the medical profession, as well as among the priesthood and the faithful. Thus it is small wonder that

8. The author is misleading on my reference to capital punishment, which I did not mention in connection with the occurrence of mistakes. See Kamisar, *supra* note 1, at 1005. I merely pointed out the inconsistency of the theological position which admits capital punishment and war as exceptions from the Sixth Commandment although not expressed therein, and says that they are not "inruder," while maintaining that a killing done with a man's consent and for his benefit as an act of mercy is "murder." Whatever moral distinction may be found between these rules, they cannot by any feat of ingenuity be deduced from the text of the Commandment.

whereas appendicectomy has been practised in civilised countries since the beginning of the present century, a proposal to legalize it has still not passed the legislative assembly of Ruritania.

It must be confessed that on this particular matter the legal prohibition has not been an unmixed evil for the Ruritarians. During the great popularity of the appendix operation in much of the civilised world during the twenties and thirties of this century, large numbers of these organs were removed without adequate cause, and the citizens of Ruritania have been spared this inconvenience. On the other hand, many citizens of that country have died of appendicitis, who would have been saved if they had lived elsewhere. And whereas in other countries the medical profession has now learned enough to be able to perform this operation with wisdom and restraint, in Ruritania it is still not being performed at all. Moreover, the law has destroyed scientific inventiveness in that country in the forbidden fields.

Now, in the United States and England we have no such absurd general law on the subject of surgical operations as they have in Ruritania. In principle, medical men are left free to exercise their best judgment, and the result has been a brilliant advance in knowledge and technique. But there are just two—or possibly three—operations which are subject to the Ruritanian principle. These are abortion,⁹ euthanasia, and possibly sterilization of convenience. In these fields we, too, must have pressure groups, with lawyers and politicians warning us of the possibility of inexpert practitioners and mistaken diagnosis, and canvassing medical opinion on the risk of an operation not yielding the expected results in terms of human happiness and the health of the body politic. In these fields we, too, are forbidden to experiment to see if the foretold dangers actually come to pass. Instead of that, we are required to make a social judgment on the probabilities of good and evil before the medical profession is allowed to start on its empirical tests.

This anomaly is perhaps more obvious with abortion than it is with euthanasia. Indeed, I am prepared for ridicule when I describe euthanasia as a medical operation. Regarded as surgery it is unique, since its object is not to save or prolong life but the reverse. But euthanasia has another object which it shares with many surgical operations—the saving of pain. And it is now widely recognised, as Lord Dawson said in the debate in the House of Lords, that the saving of pain is a legitimate aim of medical practice. The question whether euthanasia will effect a net saving of pain and distress is, perhaps, one that can be only finally answered by trying it. But it is

9. Lawful everywhere on certain health grounds, but not on socio-medical grounds (the overburdened mother), eugenic grounds, ethical grounds (rape, incest, etc.), or social and libertarian grounds (the unwanted child).

obscurantist to forbid the experiment on the ground that until it is performed we cannot certainly know its results. Such an attitude, in any other field of medical endeavor, would have inhibited progress.

The argument based on mistaken diagnosis leads into the argument based on the possibility of dramatic medical discoveries. Of course, a new medical discovery which gives the opportunity of remission or cure will almost at once put an end to mercy-killings in the particular group of cases for which the discovery is made. On the other hand, the discovery cannot affect patients who have already died from their disease. The argument based on mistaken diagnosis is therefore concerned only with those patients who have been mercifully killed just before the discovery becomes available for use. The argument is that such persons may turn out to have been "mercy-killed" unnecessarily, because if the physician had waited a bit longer they would have been cured. Because of this risk for this tiny fraction of the total number of patients, patients who are dying in pain must be left to do so, year after year, against their entreaty to have it ended.

Just how real is the risk? When a new medical discovery is claimed, some time commonly elapses before it becomes tested sufficiently to justify large-scale production of the drug, or training in the techniques involved. This is a warning period when euthanasia in the particular class of case would probably be halted anyway. Thus it is quite probable that when the new discovery becomes available, the euthanasia process would not in fact show any mistakes in this regard.

Kamisar says that in my book I "did not deign this objection to euthanasia more than a passing reference." I still do not think it is worth any more than that.

The author advances the familiar but hardly convincing argument that the quantitative need for euthanasia is not large. As one reason for this argument, he suggests that not many patients would wish to benefit from euthanasia, even if it were allowed. I am not impressed by the argument. It may be true, but it is irrelevant. So long as there are *any* persons dying in weakness and grief who are refused their request for a speeding of their end, the argument for legalizing euthanasia remains. Next, the Article suggests that there is no great need for euthanasia because of the advances made with pain-killing drugs. Kamisar has made so many quotations from my book that I cannot complain that he has not made more, but there is one relevant point that he does not mention. In my book, recognising that medical science does manage to save many dying patients from the extreme of physical pain, I pointed out that it often fails to save them from an artificial, twilight existence, with nausea, giddiness, and extreme restlessness, as well as the long hours of consciousness

of a hopeless condition. A dear friend of mine, who died of cancer of the bowel, spent his last months in just this state, under the influence of morphine, which deadened pain, but vomiting incessantly, day in and day out. The question that we have to face is whether the unintelligent brutality of such an existence is to be imposed on one who wishes to end it.

The Article then makes a suggestion which, for once, really is a new one in this rather jaded debate. The suggestion appears to be that if a man really wants to die he can do the job himself.¹⁰ Whether the author seriously intends this as advice to patients I cannot discover, because he adds that he does not condone suicide, but that he prefers a *laissez-faire* approach. Whatever meaning may be attached to the author's remarks on this subject, I must say with deep respect that I find them lacking in sympathy and imagination, as well as inconsistent with the rest of his approach. A patient may often be unable to kill himself when he has reached the last and terrible stage of the disease. To be certain of committing suicide, he must act in advance; and he must not take advice, because then he might be prevented. So this suggestion multiplies the risks of false diagnosis on which the author lays such stress. Besides, has he not considered what a messy affair the ordinary suicide is, and what a shock it is for the relatives to find the body? The advantage that the author sees in suicide is that it is not "an approach aided and sanctioned by the state." This is another example of his ambivalence, his failure to make up his mind on the moral issue. But it is also a mistake, for under my legislative proposal the state would not aid and sanction euthanasia. It would merely remove the threat of punishment from euthanasia, which is an altogether different thing. My proposal is, in fact, an example of that same *laissez-faire* approach which the author himself adopts when he contemplates suicide as a solution.

The last part of the Article is devoted to the ancient "wedge" argument which I have already examined in my book. It is the trump card of the traditionalist, because no proposal for reform, however strong the arguments in favour, is immune from the wedge objection. In fact, the stronger the arguments in favour of a reform, the more likely it is that the traditionalist will take the wedge objection—it is then the only one he has. C. M. Cornford put the argument in its proper place when he said that the wedge objection means this, that you should not act justly today, for fear that you may be asked to act still more justly tomorrow.

We heard a great deal of this type of argument in England in the nineteenth century, when it was used to resist almost every social

10. Kamisar, *Some Non-Religious Views Against Proposed "Mercy-Killing" Legislation*, 42 MINN. L. REV. 969, 1011 (1958).

and economic change. In the present century we have had less of it, but (if I may claim the hospitality of these columns to say so) it seems still to be accorded an exaggerated importance in American thought. When lecturing on the law of torts in an American university a few years ago, I suggested that just as compulsory liability insurance for automobiles had spread practically through the civilised world, so we should in time see the law of tort superseded in this field by a system of state insurance for traffic accidents, administered independently of proof of fault. The suggestion was immediately met by one student with a horrified reference to "creeping socialism." That is the standard objection made by many people to any proposal for a new department of state activity. The implication is that you must resist every proposal, however admirable in itself, because otherwise you will never be able to draw the line. On the particular question of socialism, the fear is belied by the experience of a number of countries which have extended state control of the economy without going the whole way to socialistic state regimentation.

Kamisar's particular bogey, the racial laws of Nazi Germany, is an effective one in the democratic countries. Any reference to the Nazis is a powerful weapon to prevent change in the traditional taboo on sterilization as well as euthanasia. The case of sterilization is particularly interesting on this; I dealt with it at length in my book, though Kamisar does not mention its bearing on the argument. When proposals are made for promoting voluntary sterilization on eugenic and other grounds, they are immediately condemned by most people as the thin end of a wedge leading to involuntary sterilization; and then they point to the practices of the Nazis. Yet a more persuasive argument pointing in the other direction can easily be found. Several American states have sterilization laws, which for the most part were originally drafted in very wide terms, to cover desexualisation as well as sterilization, and authorizing involuntary as well as voluntary operations. This legislation goes back long before the Nazis; the earliest statute was in Indiana in 1907. What has been its practical effect? In several states it has hardly been used. A few have used it, but in practice they have progressively restricted it until now it is virtually confined to voluntary sterilization. This is so, at least, in North Carolina, as Mrs. Woodside's study strikingly shows. In my book I summed up the position as follows:

The American experience is of great interest because it shows how remote from reality in a democratic community is the fear — frequently voiced by Americans themselves — that voluntary sterilization may be the 'thin end of the wedge,' leading to a large-scale violation of human rights as happened in Nazi Germany. In fact, the American experience is the precise

opposite—starting with compulsory sterilization, administrative practice has come to put the operation on a voluntary footing.

But it is insufficient to answer the "wedge" objection in general terms; we must consider the particular fears to which it gives rise. Kamisar professes to fear certain other measures that the Euthanasia societies may bring up if their present measure is conceded to them. Surely, these other measures, if any, will be debated on their merits? Does he seriously fear that anyone in the United States is going to propose the extermination of people of a minority race or religion? Let us put aside such ridiculous fancies and discuss practical politics.

The author is quite right in thinking that a body of opinion would favour the legalization of the involuntary euthanasia of hopelessly defective infants, and some day a proposal of this kind may be put forward. The proposal would have distinct limits, just as the proposal for voluntary euthanasia of incurable sufferers has limits. I do not think that any responsible body of opinion would now propose the euthanasia of insane adults, for the perfectly clear reason that any such practice would greatly increase the sense of insecurity felt by the borderline insane and by the large number of insane persons who have sufficient understanding on this particular matter.

Kamisar expresses distress at a concluding remark in my book in which I advert to the possibility of old people becoming an overwhelming burden on mankind. I share his feeling that there are profoundly disturbing possibilities here; and if I had been merely a propagandist, intent upon securing agreement for a specific measure of law reform, I should have done wisely to have omitted all reference to this subject. Since, however, I am merely an academic writer, trying to bring such intelligence as I have to bear on moral and social issues, I deemed the topic too important and threatening to leave without a word. I think I have made it clear, in the passages cited, that I am not for one moment proposing any euthanasia of the aged in present society; such an idea would shock me as much as it shocks Kamisar and would shock everybody else. Still, the fact that we may one day have to face is that medical science is more successful in preserving the body than in preserving the mind. It is not impossible that, in the foreseeable future, medical men will be able to preserve the mindless body until the age, say, of 1000, while the mind itself will have lasted only a tenth of that time. What will mankind do then? It is hardly possible to imagine that we shall establish huge hospital-mausolea where the aged are kept in a kind of living death. Even if it is desired to do this, the cost of the undertaking may make it impossible.

This is not an immediately practical problem, and we need not yet face it. The problem of maintaining persons afflicted with senile

dementia is well within our economic resources as the matter stands at present. Perhaps some barrier will be found to medical advance which will prevent the problem becoming more acute. Perhaps, as time goes on, and as the alternatives become more clearly realised, men will become more resigned to human control over the mode of termination of life. Or the solution may be that after the individual has reached a certain age, or a certain degree of decay, medical science will hold its hand, and allow him to be carried off by natural causes.¹¹ But what if these natural causes are themselves painful? Would it not be better kindness to substitute human agency?

In general, it is enough to say that we do not have to know the solutions to these problems. The only doubtful moral question on which we have to make an immediate decision in relation to involuntary euthanasia is whether we owe a moral duty to terminate the life of an insane person who is suffering from a painful and incurable disease. Such a person is left unprovided for under the legislative proposal formulated in my book. The objection to any system of involuntary euthanasia of the insane is that it may cause a sense of insecurity. It is because I think that the risk of this fear is a serious one that a proposal for the reform of the law must leave the insane out.

11. An interesting pronouncement, on which there would probably be a wide measure of agreement, was made recently by Pope Pius XII before an international audience of physicians. The Pope said that reanimation techniques were moral, but made it clear that when life was ebbing hopelessly, physicians might abandon further efforts to stave off death, or relatives might ask them to desist "in order to permit the patient, already virtually dead, to pass on in peace." On the time of death, the Pope said that "Considerations of a general nature permit the belief that human life continues as long as the vital functions — as distinct from the simple life of organs — manifest themselves spontaneously or even with the help of artificial proceedings." By implication, this asserts that a person may be regarded as dead when all that is left is "the simple life of organs." The Pope cited the tenet of Roman Catholic doctrine that death occurs at the moment of "complete and definitive separation of body and soul." In practice, he added, the terms "body" and "separation" lack precision. He explained that establishing the exact instant of death in controversial cases was the task not of the Church but of the physician. *N. Y. Times*, November 25, 1957, p. 1, col. 3.